

UNITED STATES OF AMERICA )  
 )  
 vs. ) 5:20-cr-341-FL-1  
 )  
 RICHARD RUBALACAVA )

APPEARANCES OF COUNSEL:

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1 (Tuesday, March 23, 2021)

2 P R O C E E D I N G S

3 \* \* \*

4 (Commencing at 9:40 a.m.)

5 THE COURT: Good morning, ladies and gentlemen.

6 This is a session of arraignments in felony criminal court  
7 this morning. I am United States Magistrate Judge Robert  
8 Jones. There are six cases on the calendar. I'd like to  
9 call those counsel to advise me of the status of each case  
10 that is called, as well as the anticipated plea in each case  
11 that's moving forward this morning.

12 \* \* \*

13 THE COURT: The next case is Richard Rubalacava,  
14 that is case 5:20-cr-341.

15 MR. GRAY: Good morning, Your Honor. Mr. Edward  
16 Gray for Mr. Rubalacava, he's present in the courtroom.  
17 We're prepared to plead guilty pursuant to a plea agreement.

18 \* \* \*

19 (Commencing at 9:42 a.m.)

20 THE COURT: I'd like to ask each defendant  
21 appearing before the Court this morning to listen carefully  
22 to the following information. This information will be an  
23 important part of your case. You may be called upon this  
24 morning to make decisions in your cases based on the  
25 following.

1           You are here because a bill of indictment has been  
2 returned against you by the Grand Jury charging you with the  
3 violation of one or more federal criminal laws.

4           You have certain rights as relate to these charges  
5 and I'm going to explain those rights to you. As explained  
6 to you at your initial appearance, you have the right to  
7 remain silent, you have the right to be represented by an  
8 attorney, and, if necessary, to have the Court appoint an  
9 attorney to represent you in your case, including in a  
10 trial.

11           You have a right to trial by jury and at such trial  
12 you are presumed to be innocent. You do not have to prove  
13 anything. Instead, the burden is upon the Government.  
14 Through it's attorneys and agents, to prove you guilty by  
15 competent evidence and beyond a reasonable doubt.

16           The method for the Government to do this is to call  
17 its witnesses who would testify under oath in front of you,  
18 in front of a jury and in front of the presiding District  
19 Judge. You, through your lawyer, will then have the right  
20 to cross-examine those witnesses and to object to any  
21 evidence you deem to be legally improper.

22           You would also have a right to use the subpoena  
23 power of this Court to bring to court witnesses who may be  
24 favorable to you and to have these witnesses testify under  
25 oath. You also may elect to take the witness stand and

1 testify under oath, but only if you wish to do so. No one  
2 can force you to take the witness stand and testify if you  
3 do not want to. If you choose not to testify, the fact that  
4 you do not testify will not be held against you and the  
5 District Judge will instruct the jury accordingly.

6           If you plead guilty to an offense this morning, you  
7 will waive your right to a trial by jury and the rights that  
8 I've just mentioned, other than your right to an attorney.

9           You also have to waive your right not to  
10 incriminate yourself because I cannot accept your plea of  
11 guilty as to a particular offense or offenses unless you  
12 admit in open court your guilt as to that particular offense  
13 or offenses.

14           By pleading guilty to a felony offense or being  
15 convicted by a jury and adjudicated guilty of the felony  
16 offense, you may lose valuable civil rights, such as the  
17 right to possess any kind of firearm, the right to serve on  
18 a jury, the right to hold public office, and the right to  
19 vote.

20           If you plead guilty or are found guilty at trial,  
21 you may be ordered to make restitution in money or services  
22 to the victims of your crime, if they are identifiable.  
23 Certain cases you may be required to forfeit property to the  
24 United States Government.

25           If your offense involves fraud, you may be required

1 to provide notice of your conviction to the victims of your  
2 crime.

3 In addition, if you are not a United States  
4 citizen, if you are convicted, you may be removed from the  
5 United States, denied citizenship and denied admission to  
6 the United States in the future.

7 As required by the law, a special assessment or  
8 monetary amount of \$100 for each felony offense or count to  
9 which you plead guilty or are found guilty at trial will be  
10 imposed against you. This special assessment of \$100 per  
11 count will be in addition to and on top of any fines that  
12 may also be imposed.

13 You may be given a term of supervised release  
14 following any actual term of incarceration that is imposed.  
15 Supervised release is similar to what you may know as  
16 probation. The term of supervised release in each  
17 individual case can range anywhere from one year up to life  
18 based upon your individual criminal history and the offense.  
19 Supervised release would require you to report to your  
20 assigned probation officer from time to time and to comply  
21 with any court-imposed or directed instructions.

22 If you violate supervised release conditions, you  
23 may be required to serve an additional time of  
24 incarceration.

25 The United States Sentencing Commission has

1 established advisory guideline ranges for all federal  
2 crimes. Although the District Judge is no longer required  
3 to specifically follow the guidelines in sentencing you, he  
4 or she is required to calculate the advisory guideline for  
5 your offense or offenses. The District Judge will then  
6 consider that guideline range, as well as other relevant  
7 factors as set forth in Title 18 of the United States Code,  
8 Section 3553(a) before imposing sentence.

9           The District Judge has the authority in some  
10 circumstances to depart upward or downward from that  
11 advisory guideline range. And the District Judge will also  
12 examine other statutory sentencing factors under 18 U.S.  
13 Code, Section 3553(a) that may result in a sentence that is  
14 greater or lesser than the advisory guideline sentence.

15           If the District Judge imposes a sentence outside  
16 the guideline range, he or she is required to explain on the  
17 record at the time of sentencing his or her reasons for  
18 imposing a sentence outside the guidelines.

19           Under some circumstances you may have the right to  
20 appeal your sentence even though you pled guilty to the  
21 underlying crime. However, if you have waived the right to  
22 appeal your sentence in a plea agreement with the United  
23 States, that agreement may be binding upon you.

24           You should understand that parole has been  
25 abolished in the United States court system, so if you

1 receive a sentence which includes an active term of  
2 incarceration, you will not be released on parole.

3           Regarding plea agreements, you should know that the  
4 Court is not a party to a plea agreement. It does not  
5 participate in the plea agreement negotiations. However,  
6 the Court is obligated to examine carefully any plea  
7 agreement with the Government to ensure that it conforms to  
8 the objectives of sentencing. Rule 11 of the Federal Rules  
9 of Criminal Procedure applies to the Court's consideration  
10 of plea agreements and provides as follows:

11           That in one type of a plea agreement, you or the  
12 Government may request or recommend to the Court that a  
13 particular sentence or sentencing range is appropriate or  
14 that a particular provision of the sentencing guidelines  
15 does or does not apply. Even if the Court accepts this type  
16 of a plea agreement, the Court's not required to accept the  
17 sentencing recommendation or request and you do not have the  
18 right to withdraw your guilty plea if the Court does not  
19 follow the sentencing recommendation or request.

20           On the other hand, there may be plea agreements  
21 with the Government in which the Government agrees not to  
22 bring or will move to dismiss other charges or which you and  
23 the Government agree to a specific sentence, sentencing  
24 range or the applicability of a particular provision of the  
25 sentencing guidelines. If the Court accepts this type of a

1 plea agreement, then the terms of the plea agreement are  
2 binding on the Court and that agreed-upon disposition will  
3 be included in the judgment, unless otherwise directed by  
4 the plea agreement.

5           However, if the Court does not accept this type of  
6 a plea agreement, the defendant will have the opportunity to  
7 withdraw his or her plea.

8           If the defendant does not withdraw the plea,  
9 however, the Court is not required to follow the plea  
10 agreement and may dispose of the case less favorably toward  
11 the defendant than the plea agreement had provided.

12           A written presentence report will be prepared by  
13 the probation office to assist the District Judge in  
14 sentencing. You'll be asked to give information for this  
15 report and you are entitled to have your attorney present  
16 during the interview. It is important that the presentence  
17 report be accurate because it will likely determine your  
18 punishment range. After that report has been prepared, you  
19 and your attorney will have an opportunity to review the  
20 report and to object to any aspects of the report that you  
21 believe are inaccurate.

22           Any objections to the presentence report must be  
23 made in writing and on a timely basis. If you do not  
24 contest the facts that are set forth in the presentence  
25 report and the Court's independent findings coincide with



1 those facts, those facts will be accepted by the Court as  
2 correct and the Court will rely upon them in determining the  
3 guidelines applicable to your case.

4           If a party seeks to argue for a sentence which  
5 varies from the sentencing guidelines, that party shall file  
6 written briefings in support of that position and serve a  
7 courtesy copy on the probation officer who drafted the  
8 presentence report.

9           At the time of sentencing, you and your attorney  
10 will have the chance to speak to the Court and to argue for  
11 a sentence that you and your attorney feel is appropriate  
12 under 18 U.S. Code, Section 3553(a).

13           Judge Flanagan does not allow oral testimony in the  
14 nature of character evidence at this sentencing hearing but  
15 she'll be happy to receive from your attorney written  
16 sentencing briefing or character letters, all of which  
17 should be provided to the Court at least one week before the  
18 day you are scheduled to be sentenced.

19           Finally, if there are any victims of the offenses  
20 for which you are being sentenced, these victims will get a  
21 chance to be heard at the sentencing hearing.

22           That concludes your explanation of your rights.  
23 Those cases in which a plea of guilty is entered today will  
24 be scheduled for a sentencing hearing to be held no sooner  
25 than 90 days from today. Judge Flanagan anticipates those

1 cases to be set for her August term.

2 Each defendant appearing today should notice as I  
3 take up your case to hear your plea and to address you  
4 personally, you'll be placed under oath and that if you  
5 should answer any of my questions falsely, that your answers  
6 may later be used against you in another prosecution for  
7 perjury or making a false statement.

8 All right. So let me ask before we get started  
9 with Mr. Rubalacava's case, let me ask all the assistant  
10 U.S. attorneys here, are there any victims in any of these  
11 cases?

12 MR. SMITH: Your Honor, there are victims in this  
13 case, they've been notified but they are not here.

14 THE COURT: Any other victims?

15 UNIDENTIFIED U.S. ATTORNEY: No, Your Honor.

16 THE COURT: All right. Very good. We'll begin  
17 with Mr. Rubalacava's case, moving on to Mr. McCullers, then  
18 to Mr. Wright, and we'll conclude with Mr. McNeill.

19 THE CLERK: Please stand, sir.

20 RICHARD RUBALACAVA  
21 having been duly affirmed, testified upon his affirmation as  
22 follows:

23 THE COURT: Mr. Rubalacava, sir, I have in my hand,  
24 sir, a document in your case entitled "Consent to Proceed  
25 Before a Magistrate Judge." It looks like you have signed

1 this form, it looks like Mr. Gray has also signed this form.

2 Did you, in fact, sign this form, sir?

3 THE DEFENDANT: Yes.

4 THE COURT: And is it your knowing and voluntary  
5 desire for the purpose of conducting your arraignment in  
6 this case and taking your plea this morning, that I may  
7 conduct these proceedings as a United States Magistrate  
8 Judge?

9 THE DEFENDANT: Yes.

10 THE COURT: Thank you. Please have a seat.

11 Now, Mr. Rubalacava, sir, do you understand that  
12 you are now under oath, if you should answer any of my  
13 questions falsely, that your answers may later be used  
14 against you in another prosecution for perjury or making a  
15 false statement?

16 THE DEFENDANT: Yes.

17 THE COURT: What is your full name?

18 THE DEFENDANT: Richard Rubalacava.

19 THE COURT: And how old are you?

20 THE DEFENDANT: 26.

21 THE COURT: How far have you gone in school?

22 THE DEFENDANT: 12th.

23 THE COURT: Did you graduate from high school?

24 THE DEFENDANT: No.

25 THE COURT: Are you able to speak and understand

1 English?

2 THE DEFENDANT: Yes.

3 THE COURT: Are you able to read?

4 THE DEFENDANT: A little bit.

5 THE COURT: Okay. Are you currently or have you  
6 recently been under the care of a physician or psychiatrist  
7 or been hospitalized or treated for narcotics addiction?

8 THE DEFENDANT: I've been at the hospital for my  
9 drug problems.

10 THE COURT: Okay. And how recent was that?

11 THE DEFENDANT: A while.

12 THE COURT: Within the last year?

13 THE DEFENDANT: No.

14 THE COURT: About how long ago was that?

15 THE DEFENDANT: A couple months after I got  
16 arrested.

17 THE COURT: Mr. Gray, help me out on the timeline  
18 here.

19 MR. GRAY: Yes, Your Honor. As you know, the  
20 indictment notes that he was indicted in June of last year,  
21 his approximate last time he's been within a facility for  
22 mental health treatment or any other treatment was roughly  
23 around February, January of 2019.

24 THE COURT: Okay. Mr. Rubalacava, were you  
25 diagnosed with any condition, sir?

1 THE DEFENDANT: Bipolar, ADHD, depression.

2 THE COURT: Okay. Anything else?

3 THE DEFENDANT: I'm not too sure.

4 THE COURT: Are you currently under any kind of  
5 medication for that condition?

6 THE DEFENDANT: Yes.

7 THE COURT: What medication are you on?

8 THE DEFENDANT: I'm on Remeron.

9 THE COURT: Remeron?

10 THE DEFENDANT: Yes.

11 THE COURT: Anything else?

12 THE DEFENDANT: No.

13 THE COURT: Okay. And how often do you take that?

14 THE DEFENDANT: Every day.

15 THE COURT: Have you taken it today?

16 THE DEFENDANT: Yes.

17 THE COURT: Does it affect your ability to  
18 understand these proceedings?

19 THE DEFENDANT: No.

20 THE COURT: Okay. So other than the mental  
21 hospital, is there any other treatment or hospitalization  
22 that you've had recently?

23 THE DEFENDANT: No.

24 THE COURT: Have you -- other than the Remeron as  
25 you've described, have you taken any other drugs, any other

1 medicine, pills or had any alcoholic beverages in the past  
2 24 hours?

3 THE DEFENDANT: No.

4 THE COURT: Back to your ability to read a little.  
5 Do you know what your reading proficiency is? Do you know  
6 what your highest level of reading ability is?

7 THE DEFENDANT: No.

8 MR. GRAY: Your Honor, it may advise the Court if I  
9 could help explain that a little bit. His literacy level is  
10 that of around a 4th grade level. The Remeron that he's  
11 taking is there to help him focus, it's primarily towards  
12 the ADHD. So it won't have any impact or negative effect as  
13 to his understanding. In fact, it assists in his  
14 understanding of what's taking place today.

15 THE COURT: Okay. And, Mr. Rubalacava, that's the  
16 point of my questioning to you on this, is just for me to  
17 make an assessment that you are able to understand these  
18 proceedings. And what you're telling me is that the  
19 medication that you take on a daily basis does not affect  
20 your ability to understand the hearing this morning; is that  
21 correct?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Okay. Mr. Rubalacava, have you been  
24 provided with a copy of the charges against you in this  
25 case?

1 THE DEFENDANT: Yes.

2 THE COURT: And have you fully discussed those  
3 charges, as well as your case in general, with your  
4 attorney?

5 THE DEFENDANT: Yes.

6 THE COURT: And do you understand it's two charges  
7 contained in the indictment. Do you understand those two  
8 charges?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand what's happening this  
11 morning?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. Mr. Gray, have you had any  
14 difficulty in communicating with your client or any reason  
15 to doubt his mental competency in this case?

16 MR. GRAY: No, Your Honor. And if I could just  
17 place on the record, there had been a number of continuances  
18 in this matter simply so that we can take the time in order  
19 for him to understand what is taking place today. We've  
20 reviewed all the documents and due to his literacy range,  
21 I've reviewed and read documents to him specifically,  
22 reviewed the discovery with him specifically, and he is in a  
23 position today where he not only understands what is  
24 happening but is willing to move forward.

25 THE COURT: Okay. Is that right, Mr. Rubalacava?

1 THE DEFENDANT: Yes.

2 THE COURT: Okay. Does the Government have any  
3 reason to doubt Mr. Rubalacava's mental competency in this  
4 case?

5 MR. SMITH: No, Your Honor.

6 THE COURT: All right. The Court finds accordingly  
7 that Mr. Rubalacava is competent to appear, to understand  
8 the nature of these proceedings and to ultimately plead in  
9 these matters.

10 Mr. Rubalacava, sir, have you had the time to and  
11 have you, in fact, discussed your case with your attorney?

12 THE DEFENDANT: Yes.

13 THE COURT: And are you satisfied with Mr. Gray's  
14 advice and counsel to you in this case?

15 THE DEFENDANT: Yes.

16 THE COURT: Did you hear and understand my  
17 explanation of your rights this morning?

18 THE DEFENDANT: Yes.

19 THE COURT: Did you understand my general  
20 explanation of how you might be sentenced in these cases?

21 THE DEFENDANT: Yes.

22 THE COURT: And, Mr. Rubalacava, did you receive a  
23 copy of the indictment in this case charging you with two  
24 counts?

25 THE DEFENDANT: Yes.



1           THE COURT: And do you understand what you're  
2 charged with in those two counts?

3           THE DEFENDANT: Yes.

4           THE COURT: Do you want me to read those to you out  
5 loud or do you waive the reading of the indictment?

6           THE DEFENDANT: I'll waive the reading of that.

7           THE COURT: All right. I am required to remind you  
8 of the maximum possible punishment, not the guidelines, but  
9 the maximum possible punishment for each of the counts that  
10 you face, including any mandatory minimum penalty.

11           Would the Government please remind Mr. Rubalacava  
12 as to that information.

13           MR. SMITH: Yes, Your Honor. For both Counts One  
14 and Two, the maximum penalty on each count is not less than  
15 five years and not more than 20 years' imprisonment, a  
16 \$250,000 fine or both fine and imprisonment, not more than  
17 three years of supervised release, not more than two years'  
18 imprisonment upon revocation of supervised release, a \$100  
19 special assessment and restitution, if applicable.

20           THE COURT: Mr. Gray, were all formal plea offers  
21 conveyed to Mr. Rubalacava?

22           MR. GRAY: Yes, Your Honor, they were.

23           THE COURT: Mr. Rubalacava, I've been provided an  
24 eight-page document in your case, it is entitled Memorandum  
25 of Plea Agreement. It appears to be signed by you. It

1 appears from this document that it is your intention to  
2 plead guilty to Count One of the indictment. Is that your  
3 intention, sir?

4 THE DEFENDANT: Yes.

5 THE COURT: Did you, in fact, sign this plea  
6 agreement?

7 THE DEFENDANT: Yes.

8 THE COURT: All right. Now, let me ask you, sir,  
9 have you had an opportunity to read and to discuss this plea  
10 agreement with your attorney and did you, in fact, do so  
11 before you signed it?

12 THE DEFENDANT: Yes.

13 THE COURT: Are there any other agreements that you  
14 have with the United States or the U.S. Attorney that are  
15 related to this case other than the plea agreement?

16 THE DEFENDANT: No.

17 THE COURT: Did you understand the terms, the  
18 language, the words, the sentences, even any legal phrases  
19 that are used in this plea agreement after you discussed it  
20 with Mr. Gray?

21 THE DEFENDANT: Yes.

22 THE COURT: You understand that by entering into  
23 this plea agreement and entering a plea of guilty, that you  
24 will have waived or given up your right to appeal or to  
25 collaterally attack all or a part of your sentence?

1 THE DEFENDANT: Yes.

2 THE COURT: Has anyone made any other or different  
3 promises to get you to plead guilty in this case other than  
4 what's contained in the plea agreement?

5 THE DEFENDANT: No.

6 THE COURT: Has anyone threatened you in any way to  
7 persuade you to either accept this plea agreement or to  
8 plead guilty in this case?

9 THE DEFENDANT: No.

10 THE COURT: Mr. Rubalacava, sir, are you pleading  
11 guilty of your own free will because you are, in fact,  
12 guilty?

13 THE DEFENDANT: Yes.

14 THE COURT: All right. Now, do you understand that  
15 the offense to which you're pleading guilty is a felony  
16 offense and that if your plea is accepted by the Court,  
17 you'll be found guilty of that offense and that that may  
18 deprive you of valuable civil rights such as the right to  
19 vote, to hold public office, to serve on a jury and possess  
20 a firearm?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand that if you are not a  
23 United States citizen, that your plea of guilty may affect  
24 your residency or your status with the immigration  
25 authorities?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you understand that if I accept your  
3 plea of guilty this morning, that you may not be able to  
4 withdraw your plea or have a trial in this case?

5 THE DEFENDANT: Yes.

6 THE COURT: Have you answered all my questions  
7 truthfully?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you need any more time either to  
10 think about your plea or to discuss your case with Mr. Gray  
11 before entering your plea?

12 THE DEFENDANT: No.

13 THE COURT: How do you plead to Count One of the  
14 indictment?

15 THE DEFENDANT: Guilty.

16 THE COURT: Okay. Now, did you, as charged in  
17 Count One of the indictment, on or about May the 30th of  
18 2020, in the Eastern District of North Carolina, maliciously  
19 attempt to damage and destroy by means of fire, personal and  
20 real property of the Dollar General Express, located at 149  
21 East Davie Street, Raleigh, North Carolina, a business that  
22 affects interstate commerce, in violation of 18 U.S. Code,  
23 Section 8441. Did you do all that, sir?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Actually, that may be an 844i.

1           Okay. If the Government would provide the Court a  
2 factual basis supportive of Mr. Rubalacava's plea of guilty  
3 to Count One of the indictment, telling the Court what the  
4 Government believes it could prove at trial in this case.

5           MR. SMITH: At trial, had the case proceeded to  
6 trial, the Government's evidence would show that on May  
7 30th, 2020, during a period of civil unrest in downtown  
8 Raleigh, there were several individuals that began looting  
9 local businesses. One of those businesses was the Dollar  
10 General Express at 149 East Davie Street in downtown  
11 Raleigh. At approximately 11:13 p.m., the Raleigh Fire  
12 Department got notification of a fire and responded to that  
13 building to find heavy smoke coming out of the -- out of the  
14 building.

15           Investigation after the response showed that on  
16 video surveillance, the defendant entering the business at  
17 approximately 10:19 p.m., he took a bag and started putting  
18 several items into that bag. He then left and he came back  
19 in, filled up another bag, left, and came back in, this  
20 happened numerous times. At approximately 11 p.m., the  
21 video surveillance showed the defendant then coming back in  
22 one last time and setting fire to several items within the  
23 store. He then ran out. As that fire began to start,  
24 approximately four minutes later, the sprinkler system  
25 kicked in and sprayed down the fire, essentially stopping

1 any other damage that was going to occur from that.

2 Raleigh Police Department, through the use of that  
3 surveillance was able to positively identify the defendant.  
4 And the Dollar General, in which that was burned on this,  
5 their primary distribution center is in South Boston,  
6 Virginia, where they receive most of their items to sell.  
7 Therefore, they are engaged in interstate commerce.

8 THE COURT: Mr. Gray, you care to respond to the  
9 Government's proffer?

10 MR. GRAY: No, Your Honor. Thank you.

11 THE COURT: Mr. Rubalacava, sir, did you hear and  
12 understand the description of the criminal conduct that the  
13 prosecutor has provided to the Court?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you dispute anything that he's told  
16 me?

17 THE DEFENDANT: No.

18 THE COURT: Very good. The Court is satisfied with  
19 the responses given during this hearing and makes the  
20 following findings: It is the finding of this Court that in  
21 the case of the United States of America versus Richard  
22 Rubalacava, Case: 5:20-cr-341, that Mr. Rubalacava is fully  
23 competent and capable of entering an informed plea. He's  
24 pled guilty to Count One of the indictment, as being made  
25 knowing and voluntarily and is supported by an individual

1 factual basis, containing each of the elements of the  
2 offense charged therein. Mr. Rubalacava's plea is,  
3 therefore, accepted and he's hereby adjudged guilty of Count  
4 One of the indictment.

5 And the Court hereby conditionally approves the  
6 parties' plea agreement in this case.

7 The parties will be notified in writing of the date  
8 and place of sentencing in this matter. It is anticipated  
9 the sentencing will be scheduled before Judge Flanagan at  
10 her August term of Court.

11 Defense counsel is directed to contact probation to  
12 arrange a time for commencement and preparation of  
13 Mr. Rubalacava's PSR in this case.

14 Mr. Gray, anything further on behalf of your  
15 client?

16 MR. GRAY: No, Your Honor. Thank you.

17 THE COURT: Anything from the Government?

18 MR. SMITH: No, Your Honor. Thank you.

19 THE COURT: All right. Thank you very much.

20 (The foregoing proceedings concluded at 10:11 a.m.)

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23  
24  
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## 1 CERTIFICATE OF REPORTER

2 NORTH CAROLINA - HARNETT COUNTY:

3 I, Suzanne G. Patterson, RPR, contract court reporter  
4 for the United States District Court for the Eastern  
5 District of North Carolina, do hereby certify that pursuant  
6 to Section 753, Title 28, United States Code, that the  
7 foregoing is a true and accurate transcript of my  
8 stenographically reported proceedings held in the  
9 above-entitled matter and that the transcript page format is  
10 in conformance with the regulations of the Judicial  
11 Conference of the United States.

12  
13 Dated this 14th day of February, 2022.

14  
15 /s/ Suzanne G. Patterson  
16 Suzanne G. Patterson  
17 Registered Professional Reporter  
Contract Court Reporter  
United States District Court  
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